

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROGER BURGER)	
2645 Riverside Drive Apt #208)	
Trenton, Michigan 48183)	
)	Case No.: 2:12-cv-10856
Plaintiff,)	
)	JURY DEMAND REQUESTED
v.)	
)	VERIFIED CIVIL COMPLAINT
)	(Unlawful Debt Collection Practices)
SANTANDER CONSUMER USA, INC.)	
c/o The Corporation Company)	
30600 Telegraph Road, Ste. 2345)	
Bingham Farms, MI 48025)	
)	
Defendant.)	

VERIFIED COMPLAINT

PLAINTIFF ROGER BURGER (Plaintiff), by his attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT SANTANDER CONSUMER USA INC. (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.

3. Because Defendant conducts business in Michigan, personal jurisdiction is established.
4. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in Trenton, Wayne County, Michigan and is allegedly obligated to pay a debt, and Plaintiff is a "consumer" as that term is defined by *15 U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in *15 U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a debt collector with an office in Fort Worth, Texas.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by *15 U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant places collection calls to Defendant in order to attempt to collect an allegedly owed debt.
11. Plaintiff receives telephone calls from Defendant 4 to 5 times per week, sometimes multiple times per day.

12. Defendant has been places these excessive calls to Plaintiff for a period of months.

13. Defendant has also threatened that it will put non-payment information on his credit report even though Plaintiff has told him he disputes the amount of the debt.

14. Defendant places collection calls to Plaintiff from telephone number: 1-888-222-4227.

15. Plaintiff receives collection calls from Defendant at telephone number: 734-819-1667.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

16. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.
- b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
- c. Defendant violated §1692e of the FDCPA through the use of false, deceptive, or misleading representation or means in connection with the collection of any debt.
- d. Defendant violated §1692e(2)(a) of the FDCPA by falsely representing the character, amount, or legal status of the debt.

- e. Defendant violated §1692e(8) of the FDCPA by communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

WHEREFORE, Plaintiff, ROGER BURGER, respectfully requests judgment be entered against Defendant, SANTANDER CONSUMER USA INC. for the following:

17. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
18. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
19. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, ROGER BURGER, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

/s/ J. Daniel Scharville
J. DANIEL SCHARVILLE (P67103)
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Attorney for the Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF MICHIGAN

Plaintiff, ROGER BURGER, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.

Pursuant to 28 U.S.C. § 1746(2), I, ROGER BURGER, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

9/30/2011
Date

Roger Burger
ROGER BURGER